

## REMARKS

Please cancel claims 43 and 44 without prejudice or disclaimer.

In accordance with the foregoing, claim(s) 1, 15, and 29 have been amended. Claims 43 and 44 have been cancelled. Claims 1-7, 9-21, 23-35, and 37-42 are pending and under consideration.

In the Office Action mailed April 23, 2008, claim 44 was objected to; claims 1-7, 9-11, 15-21, 23-25, 29-35, 37-39, and 43-44 were rejected under 35 U.S.C. 103 as being unpatentable over Evans (U.S. Patent No. 5,924,074) in view of Johnson (U.S. Patent No. 5,664,109), Hacker (U.S. Patent No. 6,988,075), and the Applicant's Admitted Prior Art (AAPA); claims 12, 26 and 40 were rejected under 35 U.S.C. 103 as being unpatentable over Evans, in view of Johnson, Hacker, the AAPA, and Swanson (U.S. Patent No. 6,112,183); and claims 13, 14, 27, 28, 41, and 42 were rejected under 35 U.S.C. 103 as being unpatentable over Evans, Johnson, Hacker, AAPA, Swanson, and Haudenschild (U.S. Patent No. 6,665,647).

The foregoing objections and rejections are respectfully traversed.

Reconsideration of the claims is respectfully requested.

### Claims Objections

In the Office Action mailed April 23, 2008, claim 44 was objected to under 37 C.F.R. 1.75 as being a substantial duplicate of claim 1. Claim 44 is cancelled, thus obviating the foregoing objection.

### Claim Rejections

Evans discusses an electronic medical records system that creates and maintains all patient data electronically. Evans (col. 14 at lines 8-25) discusses Open Database Connectivity (ODBC) model, which "is an application program interface (API) that allows client applications running under Microsoft Windows to access data from a variety of data sources" (Evans, col. 14 at lines 9-13).

Evans does not discuss or suggest "a master control file controlling and providing interoperability of a medical records system between computer platforms operating on disparate

operating systems and the computer platforms including a personal computer, a hand-held device, and a network” as recited in independent claims 1, 15, and 29 of the present application.

On page 6 of the April 23 Final Office Action, the Examiner asserts that the ODBC model and patient locator of Evans are considered to be a form of a ‘master control file’ when viewed in light of the Applicant’s specification. It is respectfully asserted that the foregoing features of Evans do not correspond to the “master control file” of the present invention. It is also respectfully asserted that the Examiner has applied impermissible hindsight in this assertion in accordance with MPEP 2141.02:

“The tendency to resort to “hindsight” based upon applicant's disclosure is often difficult to avoid due to the very nature of the examination process. However, impermissible hindsight must be avoided and the legal conclusion must be reached on the basis of the facts gleaned from the prior art. “

Johnson discusses a method for extracting pre-defined data items from medical service records generated by health care providers. Johnson does not cure the deficiencies of Evans. Moreover, Johnson does not discuss or suggest “a master control file controlling and providing interoperability of a medical records system between computer platforms operating on disparate operating systems and the computer platforms including a personal computer, a hand-held device, and a network” as recited in independent claims 1, 15, and 29 of the present application.

The Admitted Prior Art discusses a master control file used with the WINDOWS operating system in which Figure 3 shows the use of WIN32 API in a system with a master control file. The Admitted Prior Art does not cure the deficiencies of Evans or Johnson.

Moreover, the Admitted Prior Art does not discuss or suggest a “a master control file controlling and providing interoperability of a medical records system between computer platforms operating on disparate operating systems and the computer platforms including a personal computer, a hand-held device, and a network” as recited in independent claims 1, 15, and 29 of the present application.

Hacker discusses a patient-controlled medical information system and method, in which a medical information database interfaces with a system server, which interfaces to a network. Hacker does not cure the deficiencies of Evans, Johnson, or the Admitted Prior Art.

Moreover, Hacker does not discuss or suggest “a master control file controlling and providing interoperability of a medical records system between computer platforms operating on

disparate operating systems and the computer platforms including a personal computer, a hand-held device, and a network” as recited in independent claims 1, 15, and 29 of the present application.

Swanson discusses a method and apparatus for processing health care transactions through a common interface in a distributed computing environment using specialized remote procedure calls. Swanson does not cure the deficiencies of Evans, Johnson, the Admitted Prior Art, or Hacker.

Moreover, Swanson does not discuss or suggest “a master control file controlling and providing interoperability of a medical records system between computer platforms operating on disparate operating systems and the computer platforms including a personal computer, a hand-held device, and a network” as recited in independent claims 1, 15, and 29 of the present application.

Haudenschild discusses an enterprise healthcare management system and method, which includes remotely hosting turnkey health care applications. Haudenschild does not cure the deficiencies of Evans, Johnson, the Admitted Prior Art, Hacker, or Swanson.

Moreover, Haudenschild does not discuss or suggest “a master control file controlling and providing interoperability of a medical records system between computer platforms operating on disparate operating systems and the computer platforms including a personal computer, a hand-held device, and a network” as recited in independent claims 1, 15, and 29 of the present application.

Further, in *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385, 1396, (U.S. Supreme Court 2007), the Supreme Court stated,

“Often, it will be necessary for a court to look to interrelated teachings of multiple patents; the effects of demands known to the design community or present in the market place; and the background knowledge possessed by a person having ordinary skill in the art, all in order to determine whether there was an apparent reason to combine the known elements in the fashion claimed by the patent issue. To facilitate review, this analysis should be made explicit. *See In re Kahn*, 441 F.3d 977,988 [78 USPQ2d 1329] (CA Fed. 2006) (“[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness”).”

Applicant respectfully submits that the Office Action does not articulate a reason for combining the references cited to support the legal conclusion of obviousness and to reject the claims.

Referring now to the present invention, independent claims 1, 15, and 29 are amended to recite:

“a master control file controlling and providing interoperability of a medical records system between computer platforms operating on disparate operating systems and the computer platforms including a personal computer, a hand-held device, and a network, wherein the master control file interfaces with the disparate operating systems and includes access and mapping information between a database of text and image data and the medical records system, the portability enabling software arranged to maintain the database, to populate and maintain the text data, and to capture, populate, maintain, and retrieve the image data in a plurality of image and text formats, wherein the portability enabling software interfacing with the plurality of image and text formats and the disparate operating systems”.

None of the foregoing references, either alone or in combination, discusses or suggests the foregoing features of the present invention (as recited in apparatus claim 1 of the present application). Independent claims 15 and 29 recite similar features of the present invention.

The above-mentioned dependent claims are patentable at least for their dependence upon one of the foregoing independent claims and recite further patentably distinguishing features of their own.

Withdrawal of the foregoing rejections is respectfully requested.

Moreover, in the April 23 Office Action, the Examiner discusses Keene. Keene does not cure the deficiencies of the foregoing references relied upon. Moreover, Keene does not discuss or suggest the foregoing features of the present invention recited in independent claims 1, 15, and 29, or in dependent claim 12. It is respectfully requested that the Examiner's assertion of Official Notice be withdrawn.

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

Date: October 17, 2008

By: 

Gene M. Garner, II  
Registration No. 34,172

1201 New York Avenue, N.W., 7th Floor  
Washington, D.C. 20005  
Telephone: (202) 434-1500  
Facsimile: (202) 434-1501